

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

KEYBANK NATIONAL ASSOCIATION,

Plaintiff,

-against-

MONOLITH SOLAR ASSOCIATES LLC, et al.,

Defendants.

Case No. 1:19-CV-1562-
DNH-ATB

**ORDER AUTHORIZING SALE OF ASSETS FREE AND CLEAR
OF LIENS AND ENCUMBRANCES**

UPON the Motion of Daniel Scouler, the Court appointed Receiver herein, dated March 26, 2021 [Dkt. No. 275] (the “**Motion**”) seeking an Order approving the sale free and clear of all liens and encumbrances of certain Receivership Property consisting of (a) certain solar photovoltaic generation facilities financed with loans from Capital Communications Federal Credit Union (“**CCFCU**”), pursuant to the terms of an Asset Purchase Agreement dated March 2021 by and among Monolith Solar Associates LLC and Solar Management Group, LLC (collectively, “**Monolith**”), as seller, and NetZero Village, LLC (“**NZV**”), as purchaser, and (b) certain solar photovoltaic generation facilities financed with loans from KeyBank National Association (“**KeyBank**”), pursuant to the terms of an Asset Purchase Agreement dated March 2021 by and among Monolith, as seller, and NZV, as purchaser, all as more particularly described in the Motion (collectively, the “**Sales**”); and it appearing that the Sales are authorized under ¶ 17 of this Court’s Order of Appointment dated December 20, 2019 [Dkt. No. 7] as modified [Dkt. Nos. 30, 96], subject to Court approval, that the proceeds of Sale would be beneficial to the Receivership Estate; the Court finds as follows:

A. The Court has authority to approve the Motion and the Sale pursuant to 28 U.S.C.

§§ 2001 and 2004 and F.R.C.P. 66.

B. Proper and sufficient notice of the Motion has been provided. No other or further notice is required, and a reasonable opportunity to object or be heard regarding the relief requested in the Motion and the transactions pursuant thereto has been afforded to all interested persons and entities entitled to notice of the Motion. Objections, if any, to the Motion have been withdrawn or resolved and, to the extent not withdrawn or resolved, are hereby overruled.

C. Approval of the Sale free and clear of liens and encumbrances is necessary in order to facilitate the Receiver's sale of assets and will not prejudice any party with an interest in the subject assets; and each entity with a lien or encumbrance upon the subject assets has consented to the Sale or did not object to the Motion and is deemed to have consented to the Sale.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

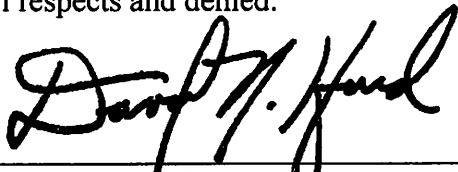
1. The Motion is granted.
2. The Receiver is authorized to take all actions he reasonably deems necessary to consummate the Sales, free and clear of all liens and encumbrances as set forth above, with the liens of CCFCU and KeyBank to attach to the proceeds of sale, in their respective orders of priority as set forth in the Motion.
3. By agreement between the Receiver, CCFCU and KeyBank:
 - a. Receiver's counsel, Nolan Heller Kauffman LLP, shall hold Ten Thousand (\$10,000.00) Dollars of the proceeds of sale allocable to CCFCU referred to in the Motion in escrow pending written agreement between the Receiver, CCFCU and KeyBank or an order of the Court ordering the release of such funds, without prejudice to the Receiver determining additional sums that it may have incurred directly attributable to such sale and obtaining payment thereon from

CCFCU and/or such secured parties' collateral as may be appropriate.

b. This Order is without prejudice to the rights of the Receiver or any other party to seek surcharge or recoupment from any creditor or other party for costs and expenses incurred by the Receiver in connection with this case based upon the operative facts and applicable law.

4. Any remaining objections to the Motion or the relief requested therein that have not been withdrawn, waived, or settled are overruled in all respects and denied.

Dated: April 20, 2021



Honorable David N. Hurd
U.S. District Judge